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EXAMINER	
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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JEAN-CHRISTOPHE GIRON, JUERGEN SCHUETT, XAVIER FANTON, and FABIEN BETEILLE

Appeal 2011-001782
Application 10/564,501
Technology Center 1700

Before EDWARD C. KIMLIN, CATHERINE Q. TIMM, and LINDA M. GAUDETTE, *Administrative Patent Judges*.

KIMLIN, *Administrative Patent Judge.*

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-18, 21, and 22. We have jurisdiction under 35 U.S.C. § 6(b).

Claim 1 is illustrative:

1. A glazing assembly, comprising:

a first rigid upper substrate with a solar protective layer positioned on the outer face of the first rigid protective layer that faces outside towards the sun;

at least one active system positioned on the inner face of the first rigid substrate, the at least one active system comprising a multilayer, comprising at least one thin film;

a second rigid lower substrate positioned below the at least one active system; and

at least one polymer film positioned between the active system and the second rigid substrate, the polymer film comprising a function of retaining fragments of the glazing assembly should the glazing assembly break.

The Examiner relies upon the following references as evidence of obviousness (Ans. 3):

Johnson	6,284,360 B1	Sep. 04, 2001
Barth	6,294,233 B1	Sep. 25, 2001
Giron '125	2004/0053125 A1	Mar. 18, 2004
Giron '889	WO 2002/006889	Jan. 2002

Appellants' claimed invention is directed to a glazing assembly comprising a first rigid upper substrate and a second rigid lower substrate. The first substrate has a solar protective layer positioned on its outer face, and at least one active system positioned on its inner face. In addition, a polymer film is positioned between the active system and the second substrate which functions to retain fragments of the glazing assembly upon breakage.

Appealed claims 1-11, 15-18, 21, and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Giron in view of Barth. Claims 12-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Giron in view of Barth and Johnson.

We have thoroughly reviewed the respective positions advanced by Appellants and the Examiner. In so doing, we agree with Appellants that the Examiner has not established a prima facie case of obviousness for the claimed subject matter. Accordingly, we will not sustain the Examiner's rejections.

The appealed claims require at least one active system positioned on the inner face of the first substrate, which substrate has a solar protective layer on its outer face. The Examiner recognizes that the primary reference, Giron, does not disclose a solar protective layer on the outer face of the first substrate. While it may have been obvious to one of ordinary skill in the art, based on Barth, to provide a solar protective film on the outer surface of a glass panel, the Examiner points to no teaching in Giron or Barth for providing an active system on the inner face of the substrate which has a solar protective layer on its outer face. While the Examiner reasons that it would have been obvious to orient the substrate adjacent the active system to face either inward or outward, there is no teaching in the applied prior art to position the active system on the inner surface of a substrate that has a protective layer positioned on the outer surface, nor for such active system to have a polymer film positioned between it and a second substrate.

Appellants emphasize that the present Specification teaches an advantage of applying the active system to the first substrate rather than the second, carrier substrate, namely, to obviate delamination to the carrier substrate caused by surface defects resulting from contact of the second substrate with bending members. Such a stated advantage rebuts any finding by the Examiner that the claimed positioning of the active system is simply a matter of obvious, design choice.

The Examiner's additional citation of Johnson does not remedy the deficiency of the combination of Giron and Barth discussed above.

In conclusion, based on the foregoing, we are constrained to reverse the Examiner's rejections.

REVERSED

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